

AFFIDAVIT OF COUNSEL IN SUPPORT OF MEMORANDUM
IN OPPOSITION TO PLAINTIFF'S MOTION TO AMEND COMPLAINT

I, William M. White, Jr., do hereby depose and say the following:

1. I am an attorney licensed to practice in the Commonwealth of Massachusetts and the District of Massachusetts.
2. I represent the late-Defendant Paul Murphy in the matter of Shawn Drumgold v. Timothy Callahan, et al, Civil Action No. 04-11193 (NG).
3. Defendant Paul Murphy died on January 4, 2001 as evidenced by the Certificate of Death attached hereto as **Exhibit 1**.
4. Documents on file with the Middlesex Probate and Family Court Department located in Cambridge, Massachusetts indicate that on December 1, 2001, the initial Inventory was filed by Patricia Murphy as Executrix of Defendant Paul Murphy's estate. **See Exhibit 2**. The document also reflects the appointment of Patricia Murphy as Executrix of the Estate of Paul Murphy effective April 10, 2001.
5. On or about May 26, 2005, Patricia Murphy, as Executrix of the Estate of Paul Murphy, filed the first and final account of the Estate. **See Exhibit 3**. The account indicates that all amounts collected and disbursed during April 10, 2001 and April 10, 2002 left the estate with a zero balance.
6. On or about July 18, 2005, the Probate and Family Court entered Judgment on the Estate of Paul Murphy. **See Exhibit 4**. The judgment closed the estate.
7. On June 3, 2004, Plaintiff filed suit in the matter of Drumgold v. Callahan, et al.
8. On or about March 1, 2005, Patricia Murphy submitted an answer on behalf of Defendant Paul Murphy asserting his death in affirmative defense no. 6.
9. On or about March 1, 2005, Defendant Paul Murphy's Suggestion of Death Upon the Record Under Rule 25 (a)(1) was filed.
10. At no time within the ninety-day period following the filing of the Suggestion of Death did the Plaintiff move to substitute Patricia Murphy or any other representative of the Estate of Paul Murphy as a party to the within action.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS TWENTY-
SEVENTH DAY OF NOVEMBER, 2007

/S/William M. White, Jr.
WILLIAM M. WHITE, JR.